

111TH CONGRESS  
1ST SESSION

# S. 375

To authorize the Crow Tribe of Indians water rights settlement, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2009

Mr. TESTER (for himself and Mr. BAUCUS) introduced the following bill;  
which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To authorize the Crow Tribe of Indians water rights settlement, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Crow Tribe Water  
5       Rights Settlement Act of 2009”.

6       **SEC. 2. PURPOSES.**

7       The purposes of this Act are—

8               (1) to achieve a fair, equitable, and final settle-  
9       ment of claims to water rights in the State of Mon-  
10      tana for—

1 (A) the Crow Tribe; and

2 (B) the United States for the benefit of  
3 the Tribe and allottees;

4 (2) to authorize, ratify, and confirm the Crow  
5 Tribe-Montana Water Rights Compact entered into  
6 by the Tribe and the State on June 22, 1999;

7 (3) to authorize and direct the Secretary of the  
8 Interior—

9 (A) to execute the Crow Tribe-Montana  
10 Water Rights Compact; and

11 (B) to take any other action necessary to  
12 carry out the Compact in accordance with this  
13 Act; and

14 (4) to authorize the appropriation of funds nec-  
15 essary for the implementation of the Compact and  
16 this Act.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) ALLOTTEE.—The term “allottee” means  
20 any individual who holds a beneficial real property  
21 interest in an allotment of Indian land that is—

22 (A) located within the Reservation or the  
23 ceded strip; and

24 (B) held in trust by the United States.

1           (2) CEDED STRIP.—The term “ceded strip”  
 2 means the area identified on the map attached as  
 3 appendix 5 to the Compact.

4           (3) CIP OM&R.—The term “CIP OM&R”  
 5 means—

6                   (A) any recurring or ongoing activity asso-  
 7 ciated with the day-to-day operation of the  
 8 Crow Irrigation Project;

9                   (B) any activity relating to scheduled or  
 10 unscheduled maintenance of the Crow Irrigation  
 11 Project; and

12                   (C) any activity relating to replacement of  
 13 a feature of the Crow Irrigation Project.

14           (4) COMPACT.—The term “Compact” means  
 15 the water rights compact between the Tribe and the  
 16 State contained in section 85–20–901 of the Mon-  
 17 tana Code Annotated (2007) (including any exhibit  
 18 or part of or amendment to the Compact).

19           (5) CROW IRRIGATION PROJECT.—

20                   (A) IN GENERAL.—The term “Crow Irri-  
 21 gation Project” means the irrigation project—

22                           (i) authorized by section 31 of the Act  
 23 of March 3, 1891 (26 Stat. 1040);

24                           (ii) managed by the Secretary (acting  
 25 through the Bureau of Indian Affairs); and

1 (iii) consisting of the project units  
 2 of—

- 3 (I) Agency;
- 4 (II) Big Horn;
- 5 (III) Forty Mile;
- 6 (IV) Lodge Grass #1;
- 7 (V) Lodge Grass #2;
- 8 (VI) Pryor;
- 9 (VII) Reno;
- 10 (VIII) Soap Creek; and
- 11 (IX) Upper Little Horn.

12 (B) INCLUSION.—The term “Crow Irriga-  
 13 tion Project” includes land held in trust by the  
 14 United States for the Tribe and the allottees in  
 15 the Bozeman Trail and Two Leggings irrigation  
 16 districts.

17 (6) CROW SETTLEMENT FUND.—The term  
 18 “Crow Settlement Fund” means the fund estab-  
 19 lished by section 11(a).

20 (7) ECONOMIC DEVELOPMENT.—The term  
 21 “Economic Development” means any activity the  
 22 Tribe determines to further the economic develop-  
 23 ment of the Tribe.

24 (8) ENFORCEABILITY DATE.—The term “en-  
 25 forceability date” means the date on which the Sec-

retary publishes in the Federal Register the statement of findings described in section 10(e).

(9) FINAL.—The term “final” with reference to approval of the decree described in section 10(e)(1)(A) means—

(A) completion of any direct appeal to the Montana Supreme Court of a decree by the Montana Water Court pursuant to section 85–2–235 of the Montana Code Annotated (2007), including the expiration of time for filing of any such appeal; or

(B) completion of any appeal to the appropriate United States Court of Appeals, including the expiration of time in which a petition for certiorari may be filed in the United States Supreme Court, denial of such petition, or issuance of the United States Supreme Court’s mandate, whichever occurs last.

(10) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) JOINT STIPULATION OF SETTLEMENT.—The term “joint stipulation of settlement” means the joint stipulation of settlement relating to the

civil action styled Crow Tribe of Indians v. Norton,  
No. 02–284 (D.D.C. 2006).

(12) MR&I SYSTEM.—

(A) IN GENERAL.—The term “MR&I System” means the municipal, rural, and industrial water system of the Reservation, generally described in the document entitled “Crow Indian Reservation Municipal, Rural and Industrial Water System Engineering Report” prepared by HKM Engineering, Inc., and dated July 2008.

(B) INCLUSIONS.—The term “MR&I System” includes—

(i) the raw water intake, water treatment plant, pipelines, storage tanks, pumping stations, pressure-reducing valves, electrical transmission facilities, and other items (including real property and easements necessary to deliver potable water to the Reservation) appurtenant to the system described in subparagraph (A); and

(ii) in descending order of construction priority—

(I) the Big Horn River Valley Subsystem; and

1 (II) the Little Big Horn River  
2 Valley Subsystem.

3 (13) MR&I SYSTEM OM&R.—The term “MR&I  
4 System OM&R” means—

5 (A) any recurring or ongoing activity asso-  
6 ciated with the day-to-day operation of the  
7 MR&I System;

8 (B) any activity relating to scheduled or  
9 unscheduled maintenance of the MR&I System;  
10 and

11 (C) any activity relating to replacement of  
12 project features of the MR&I System.

13 (14) RESERVATION.—The term “Reservation”  
14 means the area identified on the map attached as  
15 appendix 4 to the Compact.

16 (15) SECRETARY.—The term “Secretary”  
17 means the Secretary of the Interior.

18 (16) STATE.—The term “State” means the  
19 State of Montana.

20 (17) TRIBAL COMPACT ADMINISTRATION.—The  
21 term “Tribal Compact Administration” means any  
22 activity relating to—

23 (A) the development or enactment by the  
24 Tribe of the tribal water code;

1 (B) establishment by the Tribe of a water  
2 resources department; and

3 (C) the operation by the Tribe of that  
4 water resources department (or a successor  
5 agency) during the 10-year period beginning on  
6 the date of establishment of the department.

7 (18) TRIBAL WATER CODE.—The term “tribal  
8 water code” means a water code adopted by the  
9 Tribe in accordance with section 7(f).

10 (19) TRIBAL WATER RIGHTS.—The term “tribal  
11 water rights” means—

12 (A) the water rights of the Tribe described  
13 in the Compact; and

14 (B) the water rights provided to the Tribe  
15 under section 8.

16 (20) TRIBE.—The term “Tribe” means the  
17 Crow Tribe of Indians of the State of Montana on  
18 behalf of itself and its members (but not its mem-  
19 bers in their capacities as allottees).

20 (21) YELLOWTAIL DAM OM&R.—The term  
21 “Yellowtail Dam OM&R” means the charges levied  
22 by the Bureau of Reclamation for operation, mainte-  
23 nance, and repair costs in association with storage  
24 contracts for water stored in Bighorn Lake.



1           (22) WATER DEVELOPMENT PROJECT.—The  
2           term “Water Development Project” means any fu-  
3           ture potable water system developed by the Tribe to  
4           serve the other portions of the Reservation, or such  
5           water development projects as the Tribe determines  
6           to be appropriate to fulfill the water needs of its  
7           members.

8   **SEC. 4. RATIFICATION OF COMPACT.**

9           (a) IN GENERAL.—Except as modified by this Act,  
10          and to the extent the Compact does not conflict with this  
11          Act, the Compact is authorized, ratified, and confirmed.  
12          To the extent amendments are executed to make the Com-  
13          pact consistent with this Act, such amendments are also  
14          authorized, ratified, and confirmed.

15          (b) EXECUTION OF COMPACT.—To the extent that  
16          the Compact does not conflict with this Act, the Secretary  
17          is directed to and shall promptly execute the Compact, in-  
18          cluding all exhibits to or parts of the Compact requiring  
19          the signature of the Secretary. Nothing herein precludes  
20          the Secretary from approving modifications to appendices  
21          or exhibits to the Compact not inconsistent with this Act,  
22          to the extent such modifications do not otherwise require  
23          Congressional approval pursuant to the Trade and Inter-  
24          course Act, 25 U.S.C. 177, or pursuant to other Federal  
25          statute.

1       (c) NATIONAL ENVIRONMENTAL POLICY ACT OF  
2 1969.—

3           (1) ENVIRONMENTAL COMPLIANCE.—In imple-  
4       menting the Compact, the Secretary shall promptly  
5       comply with all applicable aspects of the National  
6       Environmental Policy Act of 1969 (42 U.S.C. 4321  
7       et seq.), the Endangered Species Act of 1973 (16  
8       U.S.C. 1531 et seq.), and all other applicable envi-  
9       ronmental Acts and regulations.

10          (2) EXECUTION OF THE COMPACT.—Execution  
11       of the Compact by the Secretary under this section  
12       shall not constitute a major Federal action under  
13       the National Environmental Policy Act of 1969 (42  
14       U.S.C. 4321 et seq.). The Secretary is directed to  
15       carry out all Federal compliance necessary to imple-  
16       ment the Compact.

17 **SEC. 5. REHABILITATION AND IMPROVEMENT OF THE**  
18 **CROW IRRIGATION PROJECT.**

19       (a) IN GENERAL.—The Secretary, acting through the  
20       Commissioner of Reclamation, shall carry out such activi-  
21       ties as are necessary to rehabilitate and improve the water  
22       diversion and delivery features of the Crow Irrigation  
23       Project, in accordance with an agreement to be negotiated  
24       between the Secretary and the Tribe.

1 (b) LEAD AGENCY.—The Bureau of Reclamation  
2 shall serve as the lead agency with respect to any activity  
3 to rehabilitate or improve the water diversion or delivery  
4 features of the Crow Irrigation Project.

5 (c) SCOPE.—The scope of the rehabilitation and im-  
6 provement under this section shall be as described in the  
7 document entitled “Engineering Evaluation of Existing  
8 Conditions, Crow Agency Rehabilitation Study” prepared  
9 by HKM Engineering, Inc., and dated July 2008.

10 (d) COSTS TO TRIBE.—Costs incurred by the Sec-  
11 retary in carrying out an agreement under subsection (a)  
12 that are allocated to the Tribe shall be nonreimbursable.

13 (e) FUNDING.—The Secretary’s obligation pursuant  
14 to this section shall not exceed \$160,653,000, except that  
15 the total amount of \$160,653,000 shall be increased or  
16 decreased, as appropriate, based on ordinary fluctuations  
17 from May 1, 2008, in construction cost indices applicable  
18 to the types of construction involved in the rehabilitation  
19 and improvement.

20 (f) AGREEMENT.—At the request of the Tribe, in ac-  
21 cordance with applicable Federal law, the Secretary shall  
22 enter into an agreement with the Tribe to implement the  
23 provisions of this section by which the Tribe shall plan,  
24 design, and construct any or all of the rehabilitation and  
25 improvement required by this section.

1 **SEC. 6. DESIGN AND CONSTRUCTION OF MR&I SYSTEM.**

2 (a) IN GENERAL.—The Secretary, acting through the  
3 Commissioner of Reclamation, shall carry out such activi-  
4 ties as are necessary to design and construct the water  
5 diversion and delivery features of the MR&I System, in  
6 accordance with an agreement to be negotiated between  
7 the Secretary and the Tribe.

8 (b) LEAD AGENCY.—The Bureau of Reclamation  
9 shall serve as the lead agency with respect to any activity  
10 to design and construct the water diversion and delivery  
11 features of the MR&I System.

12 (c) SCOPE.—The scope of the design and construc-  
13 tion under this section shall be as described in the docu-  
14 ment entitled “Crow Indian Reservation Municipal, Rural  
15 and Industrial Water System Engineering Report” pre-  
16 pared by HKM Engineering, Inc., and dated July 2008.

17 (d) COSTS TO TRIBE.—Costs incurred by the Sec-  
18 retary in carrying out an agreement under subsection (a)  
19 that are allocated to the Tribe shall be nonreimbursable.

20 (e) FUNDING.—The Secretary’s obligation pursuant  
21 to this section shall not exceed \$200,840,000, except that  
22 the total amount of \$200,840,000 shall be increased or  
23 decreased, as appropriate, based on ordinary fluctuations  
24 from May 1, 2008, in construction cost indices applicable  
25 to the types of construction involved in the design and con-  
26 struction.

1 (f) AGREEMENT.—At the request of the Tribe, in ac-  
 2 cordance with applicable Federal law, the Secretary shall  
 3 enter into an agreement with the Tribe to implement the  
 4 provisions of this section by which the Tribe shall plan,  
 5 design, and construct any or all of the design and con-  
 6 struction required by this section.

7 **SEC. 7. TRIBAL WATER RIGHTS.**

8 (a) INTENT OF CONGRESS.—It is the intent of Con-  
 9 gress to provide to each allottee benefits that are equiva-  
 10 lent to or exceed the benefits allottees currently possess,  
 11 taking into consideration—

12 (1) the potential risks, cost, and time delay as-  
 13 sociated with litigation that would be resolved by the  
 14 Compact and this Act;

15 (2) the availability of funding under this Act  
 16 and from other sources;

17 (3) the availability of water from the tribal  
 18 water rights; and

19 (4) the applicability of section 7 of the Act of  
 20 February 8, 1887 (25 U.S.C. 381) and this Act to  
 21 protect the interests of allottees.

22 (b) CONFIRMATION OF TRIBAL WATER RIGHTS.—

23 (1) IN GENERAL.—The tribal water rights are  
 24 ratified, confirmed, and declared to be valid.

1           (2) USE.—Use of the tribal water rights shall  
2       be subject to the terms and conditions established by  
3       the Compact.

4           (c) HOLDING IN TRUST.—The tribal water rights  
5       shall be held in trust by the United States for the use  
6       and benefit of the Tribe, and the allottees in accordance  
7       with this section.

8           (d) ALLOTTEES.—As specified in and provided for in  
9       this Act:

10           (1) APPLICABILITY OF ACT OF FEBRUARY 8,  
11       1887.—The provisions of section 7 of the Act of Feb-  
12       ruary 8, 1887 (25 U.S.C. 381), relating to the use  
13       of water for irrigation purposes shall apply to the  
14       tribal water rights.

15           (2) ENTITLEMENT TO WATER.—Any entitle-  
16       ment to water of an allottee under Federal law shall  
17       be satisfied from the tribal water rights.

18           (3) ALLOCATIONS.—Allottees shall be entitled  
19       to a just and equitable allocation of water for irriga-  
20       tion purposes.

21           (4) SATISFACTION OF CLAIMS.—The water  
22       rights and other benefits granted by this Act shall  
23       be considered full satisfaction of any claim of an al-  
24       lottee waived pursuant to section 10(a)(2).

1           (5) EXHAUSTION OF REMEDIES.—Before as-  
 2           serting any claim against the United States under  
 3           section 7 of the Act of February 8, 1887 (25 U.S.C.  
 4           381), or any other applicable law, an allottee shall  
 5           exhaust remedies available under the tribal water  
 6           code or other applicable tribal law.

7           (6) CLAIMS.—Following exhaustion of remedies  
 8           available under the tribal water code or other appli-  
 9           cable tribal law, an allottee may seek relief under  
 10          section 7 of the Act of February 8, 1887 (25 U.S.C.  
 11          381), or other applicable law.

12          (7) AUTHORITY.—The Secretary shall have the  
 13          authority to protect allottees’ rights as specified in  
 14          this section.

15          (e) AUTHORITY OF TRIBE.—

16               (1) IN GENERAL.—Except as provided in para-  
 17               graph (2), the Tribe shall have authority to allocate,  
 18               distribute, and lease the tribal water rights—

19                       (A) in accordance with the Compact; and

20                       (B) subject to approval of the Secretary of  
 21               the tribal water code under subsection  
 22               (f)(3)(B).

23          (2) LEASES BY ALLOTTEES.—Notwithstanding  
 24          paragraph (1), an allottee may lease any interest in  
 25          land held by the allottee, together with any water

1 right determined to be appurtenant to the interest in  
2 land.

3 (f) TRIBAL WATER CODE.—

4 (1) IN GENERAL.—Notwithstanding the time  
5 period set forth in article (IV)(A)(2)(b) of the Com-  
6 pact, not later than 1 year after the enforceability  
7 date, the Tribe shall enact a tribal water code, that  
8 provides for—

9 (A) the management, regulation and gov-  
10 ernance of all uses of the tribal water rights in  
11 accordance with the Compact; and

12 (B) establishment by the Tribe of condi-  
13 tions, permit requirements, and other limita-  
14 tions relating to the storage, recovery, and use  
15 of the tribal water rights in accordance with the  
16 Compact.

17 (2) INCLUSIONS.—Subject to the approval of  
18 the Secretary, the tribal water code shall provide  
19 that—

20 (A) tribal allocations of water to allottees  
21 shall be satisfied with water from the tribal  
22 water rights;

23 (B) charges for delivery of water for irriga-  
24 tion purposes for allottees shall be assessed on  
25 a just and equitable basis;



1 (C) there is a process by which an allottee  
2 may request that the Tribe provide water for ir-  
3 rigation use in accordance with this Act;

4 (D) there is a due process system for the  
5 consideration and determination by the Tribe of  
6 any request by an allottee, or any successor in  
7 interest to an allottee, for an allocation of such  
8 water for irrigation purposes on allotted land,  
9 including a process for—

10 (i) appeal and adjudication of any de-  
11 nied or disputed distribution of water; and

12 (ii) resolution of any contested admin-  
13 istrative decision; and

14 (E) there is a requirement that any allot-  
15 tee with a claim relating to the enforcement of  
16 rights of the allottee under the tribal water  
17 code or relating to the amount of water allo-  
18 cated to land of the allottee must first exhaust  
19 remedies available to the allottee under tribal  
20 law and the tribal water code before initiating  
21 an action against the United States or peti-  
22 tioning the Secretary pursuant to subsection  
23 (d)(6).

24 (3) ACTION BY SECRETARY.—

1 (A) IN GENERAL.—The Secretary shall ad-  
2 minister the tribal water rights until the tribal  
3 water code is enacted in accordance with para-  
4 graph (1) and those provisions requiring ap-  
5 proval pursuant to paragraph (2).

6 (B) APPROVAL.—The tribal water code  
7 shall not be valid unless—

8 (i) the provisions of the tribal water  
9 code required by paragraph (2) are ap-  
10 proved by the Secretary; and

11 (ii) each amendment to the tribal  
12 water code that affects a right of an allot-  
13 tee is approved by the Secretary.

14 (C) APPROVAL PERIOD.—

15 (i) IN GENERAL.—Except as provided  
16 by clause (ii), if the Secretary does not ap-  
17 prove or disapprove the tribal water code  
18 before the date that is 180 days after the  
19 date on which the tribal water code is sub-  
20 mitted to the Secretary for approval, the  
21 tribal water code shall be considered to  
22 have been approved by the Secretary to the  
23 extent that it is not inconsistent with the  
24 Compact or this Act.

1 (ii) MUTUAL EXTENSION OF AP-  
 2 PROVAL PERIOD.—The tribal water code  
 3 may not be considered to have been ap-  
 4 proved by the Secretary under clause (i) if  
 5 the Secretary and the Tribe agree to ex-  
 6 tend the approval period.

7 (g) EFFECT.—Except as otherwise specifically pro-  
 8 vided in this section, nothing in this Act—

9 (1) authorizes any action by an allottee against  
 10 any individual or entity, or against the Tribe, under  
 11 Federal, State, tribal, or local law; or

12 (2) alters or affects the status of any action  
 13 pursuant to section 1491(a) of title 28, United  
 14 States Code.

15 **SEC. 8. STORAGE ALLOCATION FROM BIGHORN LAKE.**

16 (a) STORAGE ALLOCATION TO TRIBE.—

17 (1) IN GENERAL.—As described in and subject  
 18 to article III(A)(1)(b) of the Compact, the Secretary  
 19 shall allocate to the Tribe 300,000 acre-feet per year  
 20 of water stored in Bighorn Lake, Yellowtail Unit,  
 21 Lower Bighorn Division, Pick Sloan Missouri Basin  
 22 Program, Montana, under a water right held by the  
 23 United States and managed by the Bureau of Rec-  
 24 lamation, as measured at the outlet works of  
 25 Yellowtail Dam, including—

(A) not more than 150,000 acre-feet per year of the allocation, which may be used in addition to the natural flow right described in article III(A)(1)(a) of the Compact; and

(B) 150,000 acre-feet per year of the allocation, which may be used only as supplemental water for the natural flow right described in article III(A)(1)(a) of the Compact for use in times of natural flow shortage.

(2) TREATMENT.—

(A) IN GENERAL.—The allocation under paragraph (1) shall be considered to be part of the tribal water rights.

(B) PRIORITY DATE.—The priority date of the allocation under paragraph (1) shall be the priority date of the water right held by the Bureau of Reclamation.

(C) ADMINISTRATION.—

(i) IN GENERAL.—The Tribe shall administer the water allocated under paragraph (1) in accordance with the Compact.

(ii) TEMPORARY TRANSFER.—In accordance with subsection (c), the Tribe may temporarily transfer by service contract, lease, exchange, or other agreement,

1 not more than 50,000 acre-feet of water  
2 allocated under paragraph (1)(A) off the  
3 Reservation, subject to the approval of the  
4 Secretary and the requirements of the  
5 Compact.

6 (b) ALLOCATION AGREEMENT.—

7 (1) IN GENERAL.—As a condition of receiving  
8 an allocation under this section, the Tribe shall  
9 enter into an allocation agreement with the Sec-  
10 retary to establish the terms and conditions of the  
11 allocation, in accordance with the terms and condi-  
12 tions of the Compact and this Act.

13 (2) INCLUSIONS.—The allocation agreement  
14 under paragraph (1) shall include, among other  
15 things, a provision that—

16 (A) it is without limit as to term;

17 (B) the Tribe, and not the United States,  
18 shall be entitled to all consideration due to the  
19 Tribe under any lease, contract, or agreement  
20 the Tribe may enter into pursuant to the au-  
21 thority in subsection (c);

22 (C) the United States shall have no trust  
23 obligation or other obligation to monitor, ad-  
24 minister, or account for—

1 (i) any funds received by the Tribe as  
 2 consideration under any lease, contract, or  
 3 agreement the Tribe may enter into pursu-  
 4 ant to the authority in subsection (c); or

5 (ii) the expenditure of such funds;

6 (D) if the facilities at Yellowtail Dam are  
 7 significantly reduced or are anticipated to be  
 8 significantly reduced for an extended period of  
 9 time, the Tribe shall have the same storage  
 10 rights as other storage contractors with respect  
 11 to the allocation under this section;

12 (E) the costs associated with the construc-  
 13 tion of the storage facilities at Yellowtail Dam  
 14 allocable to the Tribe—

15 (i) shall be nonreimbursable; and

16 (ii) shall be excluded from any repay-  
 17 ment obligation of the Tribe; and

18 (F) no water service capital charges shall  
 19 be due or payable for any water allocated to the  
 20 Tribe pursuant to this Act and the allocation  
 21 agreement, regardless of whether that water is  
 22 delivered for use by the Tribe or is delivered  
 23 under any leases, contracts, or agreements the  
 24 Tribe may enter into pursuant to the authority  
 25 in subsection (c).

1 (c) TEMPORARY TRANSFER FOR USE OFF RESERVA-  
 2 TION.—

3 (1) IN GENERAL.—Notwithstanding any other  
 4 provision of statutory or common law, subject to  
 5 paragraph (2), on approval of the Secretary and  
 6 subject to the terms and conditions of the Compact,  
 7 the Tribe may enter into a service contract, lease,  
 8 exchange, or other agreement providing for the tem-  
 9 porary delivery, use, or transfer of not more than  
 10 50,000 acre-feet per year of water allocated under  
 11 subsection (a)(1)(A) for use off the Reservation.

12 (2) REQUIREMENT.—An agreement under para-  
 13 graph (1) shall not permanently alienate any portion  
 14 of the water allocated under subsection (a)(1)(A).

15 (d) REMAINING STORAGE.—

16 (1) IN GENERAL.—Upon the date of enactment  
 17 of this Act, water in Bighorn Lake shall be consid-  
 18 ered to be fully allocated and no further storage allo-  
 19 cations shall be made by the Secretary.

20 (2) EFFECT OF SUBSECTION.—Nothing in this  
 21 subsection prevents the Secretary from renewing the  
 22 storage contract with Pennsylvania Power and Light  
 23 Company consistent with the allocation to Pennsyl-  
 24 vania Power and Light Company in existence on the  
 25 date of enactment of this Act, or entering into fu-

1       ture agreements with the Northern Cheyenne or  
 2       Crow Tribes facilitating the Northern Cheyenne and  
 3       Crow Tribes' use of their allocations of water from  
 4       Bighorn Lake.

5   **SEC. 9. SATISFACTION OF CLAIMS.**

6       (a) IN GENERAL.—The benefits provided to the Tribe  
 7       and the allottees under the Compact and this Act shall  
 8       satisfy all claims of the Tribe and the allottees waived and  
 9       released pursuant to section 10.

10      (b) SATISFACTION OF CLAIMS RELATING TO CROW  
 11   IRRIGATION PROJECT.—

12           (1) IN GENERAL.—Subject to paragraph (2),  
 13       the funds authorized to be appropriated under sub-  
 14       sections (a) and (h) of section 14 shall be used to  
 15       satisfy any claim of the Tribe or the allottees with  
 16       respect to the appropriation of funds for the reha-  
 17       bilitation, expansion, improvement, repair, operation,  
 18       or maintenance of the Crow Irrigation Project. Upon  
 19       complete appropriation of funds authorized by sub-  
 20       sections (a) and (h) of section 14 any claim of the  
 21       Tribe or the allottees with respect to the appropria-  
 22       tion of funds for the rehabilitation, expansion, im-  
 23       provement, repair, operation, or maintenance of the  
 24       Crow Irrigation Project shall be deemed to have  
 25       been satisfied.



1           (2) EFFECT.—Nothing in this Act affects any  
 2       applicable law (including regulations) under which  
 3       the United States collects irrigation assessments  
 4       from—

5                   (A) non-Indian users of the Crow Irriga-  
 6       tion Project; and

7                   (B) the Tribe, tribal entities and instru-  
 8       mentalities, tribal members, allottees, and enti-  
 9       ties owned by the Tribe, tribal members, or  
 10      allottees to the extent that annual irrigation as-  
 11      sessments assessed on such tribal water users  
 12      exceed the amount of funds available under sec-  
 13      tion 11(d)(3)(F) for costs relating to CIP  
 14      OM&R.

15      (c) NO RECOGNITION OF WATER RIGHTS.—Notwith-  
 16      standing subsection (a) and except as provided in section  
 17      7(d), nothing in this Act recognizes or establishes any  
 18      right of a member of the Tribe or an allottee to water  
 19      within the Reservation or the ceded strip.

20      **SEC. 10. WAIVERS AND RELEASES OF CLAIMS.**

21      (a) IN GENERAL.—

22                   (1) WAIVER AND RELEASE OF CLAIMS BY THE  
 23      TRIBE AND THE UNITED STATES ACTING IN ITS CA-  
 24      PACITY AS TRUSTEE FOR THE TRIBE.—Subject to  
 25      the retention of rights set forth in subsection (c), in

1 return for recognition of the tribal water rights and  
2 other benefits as set forth in the Compact and this  
3 Act, the Tribe, on behalf of itself and its members  
4 (but not tribal members in their capacities as  
5 allottees), and the United States acting in its capac-  
6 ity as trustee for the Tribe and its members (but not  
7 tribal members in their capacities as allottees), are  
8 authorized and directed, to execute a waiver and re-  
9 lease of all claims for water rights within the State  
10 of Montana that the Tribe, or the United States act-  
11 ing in its capacity as trustee for the Tribe, asserted,  
12 or could have asserted, in any proceeding, including  
13 but not limited to the Montana stream adjudication,  
14 up to and including the enforceability date, except to  
15 the extent that such rights are recognized in the  
16 Compact as amended by this Act.

17 (2) WAIVER AND RELEASE OF CLAIMS BY THE  
18 UNITED STATES ACTING IN ITS CAPACITY AS TRUST-  
19 EE FOR ALLOTTEES.—Subject to the retention of  
20 rights set forth in subsection (c), in return for rec-  
21 ognition of the Tribe’s water rights and other bene-  
22 fits as set forth in the Compact and this Act, the  
23 United States acting in its capacity as trustee for  
24 allottees is authorized and directed to execute a  
25 waiver and release of all claims for water rights

1 within the Reservation and the ceded strip that the  
 2 United States acting in its capacity as trustee for  
 3 the allottees asserted, or could have asserted, in any  
 4 proceeding, including but not limited to the Montana  
 5 stream adjudication, up to and including the en-  
 6 forceability date, except to the extent that such  
 7 rights are recognized in the Compact or this Act.

8 (3) WAIVER AND RELEASE OF CLAIMS BY THE  
 9 TRIBE AGAINST THE UNITED STATES.—Subject to  
 10 the retention of rights set forth in subsection (c), the  
 11 Tribe, on behalf of itself and its members, is author-  
 12 ized to execute a waiver and release of—

13 (A) all claims against the United States,  
 14 its agencies, or employees, relating to claims for  
 15 water rights within the State of Montana that  
 16 the United States acting in its capacity as  
 17 trustee for the Tribe asserted, or could have as-  
 18 serted, in any proceeding, including but not lim-  
 19 ited to the Montana stream adjudication, except  
 20 to the extent that such rights are recognized as  
 21 tribal water rights in this Act, including all  
 22 claims relating in any manner to the claims re-  
 23 served against the United States, its agencies  
 24 or employees in section 4(e) of the Joint Stipu-

1           lation of Settlement, Crow Tribe of Indians v.  
2           Norton, No. 02–284 (Apr. 7, 2006);

3           (B) all claims against the United States,  
4           its agencies, or employees relating to damages,  
5           losses, or injuries to water, water rights, land,  
6           or natural resources due to loss of water or  
7           water rights (including but not limited to dam-  
8           ages, losses or injuries to hunting, fishing,  
9           gathering or cultural rights due to loss of water  
10          or water rights; claims relating to interference  
11          with, diversion or taking of water; or claims re-  
12          lating to failure to protect, acquire, replace, or  
13          develop water, water rights or water infrastruc-  
14          ture) within the State of Montana that first ac-  
15          crued at any time up to and including the en-  
16          forceability date, including all claims relating to  
17          the failure to establish or provide a municipal  
18          rural or industrial water delivery system on the  
19          Reservation and all claims relating to the fail-  
20          ure to provide for, operate or maintain the  
21          Crow Irrigation Project, or any other irrigation  
22          system or irrigation project on the Reservation;

23          (C) all claims against the United States,  
24          its agencies, or employees relating to the pend-

1           ing litigation of claims relating to the Tribe's  
2           water rights in the State of Montana;

3                 (D) all claims against the United States,  
4           its agencies, or employees relating to the nego-  
5           tiation, execution, or the adoption of the Com-  
6           pact, exhibits thereto, or this Act;

7                 (E) subject to the retention of rights set  
8           forth in subsection (c), all claims for monetary  
9           damages that first accrued at any time up to  
10          and including the enforceability date with re-  
11          spect to—

12                     (i) the failure to recognize or enforce  
13           the Tribe's claim of title to lands that are  
14           created by the movement of the Big Horn  
15           River; and

16                     (ii) the failure to make productive use  
17           of those lands created by the movement of  
18           the Big Horn River to which the Tribe has  
19           claimed title;

20                 (F) all claims that first accrued at any  
21           time up to and including the enforceability date  
22           arising from the taking or acquisition of the  
23           Tribe's land or resources for the construction of  
24           the Yellowtail Dam;

1 (G) all claims that first accrued at any  
 2 time up to and including the enforceability date  
 3 relating to the construction and operation of  
 4 Yellowtail Dam and the management of Big  
 5 Horn Lake; and

6 (H) all claims that first accrued at any  
 7 time up to and including the enforceability date  
 8 relating to the generation of power from  
 9 Yellowtail Dam or the lack thereof.

10 (b) EFFECTIVENESS OF WAIVERS AND RELEASES.—  
 11 The waivers under subsection (a) shall take effect on the  
 12 enforceability date.

13 (c) RESERVATION OF RIGHTS AND RETENTION OF  
 14 CLAIMS.—Notwithstanding the waivers and releases au-  
 15 thorized in this Act, the Tribe on behalf of itself and its  
 16 members and the United States acting in its capacity as  
 17 trustee for the Tribe retain—

18 (1) all claims for enforcement of the Compact,  
 19 any final decree, or this Act;

20 (2) all rights to use and protect water rights ac-  
 21 quired after the date of enactment of this Act;

22 (3) all claims for damages, losses or injuries to  
 23 water rights or claims of interference with, diversion  
 24 or taking of water rights (including but not limited  
 25 to claims for injury to lands resulting from such

1 damages, losses, injuries, interference with, diver-  
2 sion, or taking of water rights) arising out of activi-  
3 ties occurring outside the State of Montana;

4 (4) all rights to use and protect water rights ac-  
5 quired pursuant to state law, to the extent not in-  
6 consistent with the Compact;

7 (5) all claims relating to activities affecting the  
8 quality of water including but not limited to any  
9 claims the Tribe might have under Comprehensive  
10 Environmental Response, Compensation, and Liabil-  
11 ity Act (including but not limited to claims for dam-  
12 ages to natural resources), the Safe Drinking Water  
13 Act, the Clean Water Act, and the regulations imple-  
14 menting these Acts;

15 (6) all claims relating to damages, losses, or in-  
16 juries to land or natural resources not due to loss  
17 of water or water rights (including, but not limited  
18 to hunting, fishing, gathering, or cultural rights);

19 (7) all rights, remedies, privileges, immunities,  
20 and powers not specifically waived and released pur-  
21 suant to this Act;

22 (8) all claims against any person or entity other  
23 than the United States, including claims for mone-  
24 tary damages, with respect to—

1 (A) the Tribe's claim of title to lands that  
 2 are created by the movement of the Big Horn  
 3 River; and

4 (B) the productive use of those lands cre-  
 5 ated by the movement of the Big Horn River to  
 6 which the Tribe has claimed title; and

7 (9) all claims that first accrued after the en-  
 8 forceability date with respect to claims otherwise  
 9 waived in accordance with subsection (a)(3)(B), and  
 10 (E) through (H), inclusive.

11 (d) EFFECT OF COMPACT AND ACT.—Nothing in the  
 12 Compact or this Act—

13 (1) affects the ability of the United States act-  
 14 ing in its sovereign capacity to take actions author-  
 15 ized by law, including but not limited to any laws re-  
 16 lating to health, safety or the environment, including  
 17 but not limited to the Clean Water Act, the Safe  
 18 Drinking Water Act, the Comprehensive Environ-  
 19 mental Response, Compensation, and Liability Act,  
 20 Resource Conservation and Recovery Act, and the  
 21 regulations implementing such Acts;

22 (2) affects the ability of the United States to  
 23 take actions acting in its capacity as trustee for any  
 24 other Indian tribe or allottee of any other Indian  
 25 tribe;



1 (3) confers jurisdiction on any State court to—

2 (A) interpret Federal law regarding health,  
3 safety, or the environment or determine the du-  
4 ties of the United States or other parties pursu-  
5 ant to such Federal law; and

6 (B) conduct judicial review of Federal  
7 agency action.

8 (4) waives any claim of a member of the Tribe  
9 in an individual capacity that does not derive from  
10 a right of the Tribe; or

11 (5) revives any claims waived by the Tribe in  
12 the Joint Stipulation of Settlement, Crow Tribe of  
13 Indians v. Norton, No. 02–284 (Apr. 7, 2006).

14 (e) ENFORCEABILITY DATE.—

15 (1) IN GENERAL.—The enforceability date shall  
16 be the date on which the Secretary publishes in the  
17 Federal Register a statement of findings that—

18 (A) the Montana Water Court has issued  
19 a final judgment and decree approving the  
20 Compact, or if the Montana Water Court is  
21 found to lack jurisdiction, the United States  
22 District Court of jurisdiction has approved the  
23 Compact as a consent decree and such approval  
24 is final;

1 (B) \$44,000,000 has been deposited in the  
2 Crow Settlement Fund;

3 (C) the Secretary has fulfilled his obliga-  
4 tions to negotiate an agreement with the Tribe  
5 in accordance with sections 5(a) and 6(a);

6 (D) the State has appropriated and paid  
7 into an interest-bearing escrow account any  
8 payments then due to the Tribe under the Com-  
9 pact;

10 (E) the Tribe has ratified the Compact by  
11 submitting the Act and the Compact to a vote  
12 by the tribal membership for approval or dis-  
13 approval and the tribal membership has voted  
14 to approve the Act and the Compact by a ma-  
15 jority of votes cast on the day of the vote, as  
16 certified by the Secretary and the Tribe;

17 (F) the Secretary has fulfilled the require-  
18 ments of section 8(a); and

19 (G) the waivers and releases authorized  
20 and set forth in subsection (a) have been exe-  
21 cuted by the parties and the Secretary.

22 (f) TOLLING OF CLAIMS.—

23 (1) IN GENERAL.—Each applicable period of  
24 limitation and time-based equitable defense relating  
25 to a claim described in this section shall be tolled for

1 the period beginning on the date of enactment of  
 2 this Act and ending on the date on which the  
 3 amounts authorized to be appropriated to carry out  
 4 this Act are appropriated.

5 (2) EFFECT OF SUBSECTION.—Nothing in this  
 6 subsection revives any claim or tolls any period of  
 7 limitation or time-based equitable defense that ex-  
 8 pired before the date of enactment of this Act.

9 **SEC. 11. CROW SETTLEMENT FUND.**

10 (a) ESTABLISHMENT.—There is established in the  
 11 Treasury of the United States the Crow Settlement Fund,  
 12 consisting of such amounts as are deposited in the fund  
 13 under subsections (c) through (h) of section 14.

14 (b) ACCOUNTS OF CROW SETTLEMENT FUND.—The  
 15 Secretary shall establish in the Crow Settlement Fund the  
 16 following accounts:

17 (1) The Tribal Compact Administration ac-  
 18 count, consisting of amounts authorized pursuant to  
 19 section 14(c).

20 (2) The Economic Development account, con-  
 21 sisting of amounts authorized pursuant to section  
 22 14(d).

23 (3) The Water Development Projects account,  
 24 consisting of amounts authorized pursuant to section  
 25 14(e).

1           (4) The MR&I System OM&R account, con-  
 2           sisting of amounts authorized pursuant to section  
 3           14(f).

4           (5) The Yellowtail Dam OM&R account, con-  
 5           sisting of amounts authorized pursuant to section  
 6           14(g).

7           (6) The CIP OM&R account, consisting of  
 8           amounts authorized pursuant to section 14(h).

9           (c) DEPOSITS TO CROW SETTLEMENT FUND.—

10           (1) IN GENERAL.—The Secretary of the Treas-  
 11           ury shall promptly deposit in the Crow Settlement  
 12           Fund any amounts appropriated for that purpose.

13           (2) DEPOSITS TO ACCOUNTS.—The Secretary of  
 14           the Treasury shall deposit amounts in the accounts  
 15           of the Crow Settlement Fund established under sub-  
 16           section (b) in descending order of priority, with  
 17           highest priority given to the Tribal Compact Admin-  
 18           istration account established under subsection  
 19           (b)(1).

20           (d) MANAGEMENT.—

21           (1) IN GENERAL.—The Secretary shall manage  
 22           the Crow Settlement Fund, make investments from  
 23           the Crow Settlement Fund, and make monies avail-  
 24           able from the Crow Settlement Fund for distribution  
 25           to the Tribe consistent with the American Indian

1 Trust Fund Management Reform Act of 1994 (25  
 2 U.S.C. 4001 et seq.) (referred to in this subsection  
 3 as the “Trust Fund Reform Act”).

4 (2) INVESTMENT OF CROW SETTLEMENT  
 5 FUND.—Upon the enforceability date the Secretary  
 6 shall invest amounts in the Crow Settlement Fund  
 7 in accordance with—

8 (A) the Act of April 1, 1880 (25 U.S.C.  
 9 161);

10 (B) the first section of the Act of June 24,  
 11 1938 (25 U.S.C. 162a);

12 (C) the obligations of Federal corporations  
 13 and Federal Government-sponsored entities the  
 14 charter documents of which provide that the ob-  
 15 ligations of the entities are lawful investments  
 16 for federally managed funds, including—

17 (i) the obligations of the United  
 18 States Postal Service described in section  
 19 2005 of title 39, United States Code;

20 (ii) bonds and other obligations of the  
 21 Tennessee Valley Authority described in  
 22 section 15d of the Tennessee Valley Au-  
 23 thority Act of 1933 (16 U.S.C. 831n–4);

24 (iii) mortgages, obligations, and other  
 25 securities of the Federal Home Loan Mort-

gage Corporation described in section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452); and

(iv) bonds, notes, and debentures of the Commodity Credit Corporation described in section 4 of the Act of March 8, 1938 (15 U.S.C. 713a-4); and

(D) the obligations referred to in section 201 of the Social Security Act (42 U.S.C. 401).

(3) DISTRIBUTIONS FROM CROW SETTLEMENT  
FUND.—

(A) IN GENERAL.—Funds from the Crow Settlement Fund shall be used for each purpose described in subparagraphs (B) through (G).

(B) TRIBAL COMPACT ADMINISTRATION ACCOUNT.—The Tribal Compact Administration Account shall be used for expenditures by the Tribe for Tribal Compact Administration, in accordance with the definition of Tribal Compact Administration under section 3.

(C) ECONOMIC DEVELOPMENT ACCOUNT.—The Economic Development Account shall be used for expenditures by the Tribe for economic development, in accordance with the

1 definition of Economic Development under sec-  
 2 tion 3.

3 (D) WATER DEVELOPMENT PROJECT AC-  
 4 COUNT.—The Water Development Project Ac-  
 5 count shall be used for expenditures by the  
 6 Tribe for 1 or more water development projects,  
 7 in accordance with the definition of Water De-  
 8 velopment Project under section 3.

9 (E) YELLOWTAIL DAM OM&R ACCOUNT.—  
 10 Interest accrued on the funds in the Yellowtail  
 11 Dam OM&R Account in the prior fiscal year  
 12 shall be used for Yellowtail Dam OM&R costs  
 13 in the subsequent year. The interest shall be  
 14 used to reduce the Yellowtail Dam OM&R costs  
 15 to all tribal water users on a proportional basis  
 16 for that year.

17 (F) CIP OM&R ACCOUNT.—

18 (i) IN GENERAL.—Interest accrued on  
 19 the funds in the CIP OM&R Account in  
 20 the prior fiscal year shall be used for CIP  
 21 OM&R costs in the subsequent year.

22 (ii) REDUCTION OF COSTS TO TRIBAL  
 23 WATER USERS.—

24 (I) IN GENERAL.—Subject to  
 25 subclause (II), the interest described

1 in clause (i) shall be used to reduce  
 2 the CIP OM&R costs to all tribal  
 3 water users on a proportional basis  
 4 for that year.

5 (II) LIMITATION ON USE OF  
 6 FUNDS.—The funds from the CIP  
 7 OM&R Account shall only be used to  
 8 pay irrigation assessments for the  
 9 Tribe, tribal entities and instrumen-  
 10 talities, tribal members, allottees, and  
 11 entities owned by the Tribe, tribal  
 12 members, or allottees.

13 (G) MR&I SYSTEM OM&R ACCOUNT.—

14 (i) IN GENERAL.—Interest accrued on  
 15 the funds from the MR&I System OM&R  
 16 Account in the prior fiscal year shall be  
 17 used for MR&I System OM&R costs in the  
 18 subsequent year.

19 (ii) REDUCTION OF COSTS TO TRIBAL  
 20 WATER USERS.—

21 (I) IN GENERAL.—Subject to  
 22 subclause (II), the interest described  
 23 in clause (i) shall be used to reduce  
 24 the MR&I System OM&R costs to all



1 tribal water users on a proportional  
2 basis for that year.

3 (II) LIMITATION ON USE OF  
4 FUNDS.—The funds from the MR&I  
5 System OM&R Account shall only be  
6 used to reduce water charges for  
7 water used by the Tribe, tribal enti-  
8 ties and instrumentalities, tribal mem-  
9 bers, allottees, and entities owned by  
10 the Tribe, tribal members, or  
11 allottees.

12 (4) WITHDRAWALS BY TRIBE.—

13 (A) IN GENERAL.—The Tribe may with-  
14 draw any portion of amounts in the Crow Set-  
15 tlement Fund on approval by the Secretary of  
16 a tribal management plan in accordance with  
17 the Trust Fund Reform Act.

18 (B) REQUIREMENTS.—

19 (i) IN GENERAL.—In addition to the  
20 requirements under the Trust Fund Re-  
21 form Act, the tribal management plan of  
22 the Tribe under subparagraph (A) shall re-  
23 quire that the Tribe spend any amounts  
24 withdrawn from the Crow Settlement Fund  
25 in accordance with this Act.

1                   (ii) ENFORCEMENT.—The Secretary  
 2                   may carry out such judicial or administra-  
 3                   tive actions as the Secretary determines to  
 4                   be necessary to enforce a tribal manage-  
 5                   ment plan to ensure that amounts with-  
 6                   drawn by the Tribe from the Crow Settle-  
 7                   ment Fund under this paragraph are used  
 8                   in accordance with this Act.

9                   (C) LIABILITY.—The Secretary and the  
 10                  Secretary of the Treasury shall not be liable for  
 11                  the expenditure or investment of amounts with-  
 12                  drawn from the Crow Settlement Fund by the  
 13                  Tribe under this paragraph.

14                  (D) EXPENDITURE PLAN.—

15                  (i) IN GENERAL.—For each fiscal  
 16                  year, the Tribe shall submit to the Sec-  
 17                  retary for approval an expenditure plan for  
 18                  any portion of the amounts described in  
 19                  subparagraph (A) that the Tribe elects not  
 20                  to withdraw under this paragraph during  
 21                  the fiscal year.

22                  (ii) INCLUSION.—An expenditure plan  
 23                  under clause (i) shall include a description  
 24                  of the manner in which, and the purposes  
 25                  for which, funds of the Tribe remaining in

1           the Crow Settlement Fund will be used  
2           during subsequent fiscal years.

3           (iii) APPROVAL.—On receipt of an ex-  
4           penditure plan under clause (i), the Sec-  
5           retary shall approve the plan if the Sec-  
6           retary determines that the plan is—

7                       (I) reasonable; and

8                       (II) consistent with this Act.

9           (5) ANNUAL REPORTS.—The Tribe shall submit  
10          to the Secretary annual reports describing each ex-  
11          penditure by the Tribe of amounts in the Crow Set-  
12          tlement Fund during the preceding calendar year.

13          (6) CERTAIN PER CAPITA DISTRIBUTIONS PRO-  
14          HIBITED.—No amount in the Crow Settlement Fund  
15          shall be distributed to any member of the Tribe on  
16          a per capita basis.

17          (e) AVAILABILITY.—The amounts in the Crow Settle-  
18          ment Fund shall be available for use by the Secretary and  
19          withdrawal by the Tribe beginning on the enforceability  
20          date.

21          (f) STATE CONTRIBUTION.—The State contribution  
22          shall be provided in accordance with article VI(A) of the  
23          Compact.

1 **SEC. 12. YELLOWTAIL DAM, MONTANA.**

2 (a) STREAMFLOW AND LAKE LEVEL MANAGEMENT  
3 PLAN.—

4 (1) Nothing in the Compact or the Streamflow  
5 and Lake Level Management Plan referred to in Ar-  
6 ticle III A.7. of the Compact—

7 (A) limits the discretion of the Secretary  
8 under the section 4F of that plan; or

9 (B) requires the Secretary to give priority  
10 to any factor described in section 4F of the  
11 plan over any other factor described in that sec-  
12 tion.

13 (2) Bighorn Lake water management, including  
14 the Streamflow and Lake Level Management Plan,  
15 is a Federal activity and review and enforcement of  
16 any water management decisions shall be as pro-  
17 vided by Federal law.

18 (3) The Streamflow and Lake Level Manage-  
19 ment Plan referred to in and part of the Compact  
20 shall be interpreted to clearly reflect paragraphs (1)  
21 and (2).

22 (b) POWER GENERATION.—

23 (1) Notwithstanding any other provision of law,  
24 the Tribe shall have the exclusive right to develop  
25 and market power generation as a water develop-  
26 ment project on the Yellowtail Afterbay Dam.

1           (2) The Bureau of Reclamation shall cooperate  
2       with the Tribe on such project.

3           (3) Any hydroelectric power generated under  
4       this provision shall be used or marketed by the  
5       Tribe.

6           (4) The Tribe shall retain any revenues from  
7       the sale of hydroelectric power generated under this  
8       provision.

9           (5) The United States shall have no trust obli-  
10      gation to monitor, administer, or account for the  
11      revenues received by the Tribe, or the expenditure of  
12      the revenues.

13       (c) CONSULTATION WITH TRIBE.—The Bureau of  
14      Reclamation shall consult with the Tribe on at least a  
15      quarterly basis on all issues relating to the Bureau's man-  
16      agement of Yellowtail Dam.

17      **SEC. 13. MISCELLANEOUS PROVISIONS.**

18       (a) WAIVER OF SOVEREIGN IMMUNITY BY THE  
19      UNITED STATES.—Except as provided in subsections (a)  
20      through (c) of section 208 of the Department of Justice  
21      Appropriation Act, 1953 (43 U.S.C. 666), nothing in this  
22      Act waives the sovereign immunity of the United States.

23       (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—  
24      Nothing in this Act quantifies or diminishes any land or  
25      water right, or any claim or entitlement to land or water,

1 of an Indian tribe, band, or community other than the  
2 Tribe.

3 (c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—

4 With respect to Indian land within the Reservation or the  
5 ceded strip—

6 (1) the United States shall not submit against  
7 any Indian-owned land located within the Reserva-  
8 tion or the ceded strip any claim for reimbursement  
9 of the cost to the United States of carrying out this  
10 Act and the Compact; and

11 (2) no assessment of any Indian-owned land lo-  
12 cated within the Reservation or the ceded strip shall  
13 be made regarding that cost.

14 (d) LIMITATION ON LIABILITY OF UNITED  
15 STATES.—

16 (1) IN GENERAL.—The United States has no  
17 trust or other obligation—

18 (A) to monitor, administer, or account for,  
19 in any manner, any funds provided to the Tribe  
20 by any party to the Compact other than the  
21 United States; or

22 (B) to review or approve any expenditure  
23 of those funds.

24 (2) INDEMNIFICATION.—The Tribe shall indem-  
25 nify the United States, and hold the United States

1 harmless, with respect to all claims (including claims  
 2 for takings or breach of trust) arising from the re-  
 3 ceipt or expenditure of amounts described in para-  
 4 graph (1)(A).

5 (e) EFFECT ON CURRENT LAW.—Nothing in this sec-  
 6 tion affects any provision of law (including regulations)  
 7 in effect on the day before the date of enactment of this  
 8 Act with respect to preenforcement review of any Federal  
 9 environmental enforcement action.

10 (f) LIMITATIONS ON EFFECT.—

11 (1) IN GENERAL.—Nothing in this Act or the  
 12 Compact—

13 (A) limits, expands, alters, or otherwise af-  
 14 fects—

15 (i) the meaning, interpretation, imple-  
 16 mentation, application, or effect of any ar-  
 17 ticle, provision, or term of the Yellowstone  
 18 River Compact;

19 (ii) any right, requirement, or obliga-  
 20 tion under the Yellowstone River Compact;

21 (iii) any allocation (or manner of de-  
 22 termining any allocation) of water under  
 23 the Yellowstone River Compact; or

24 (iv) any present or future claim, de-  
 25 fense, or other position asserted in any

1 legal, administrative, or other proceeding  
2 arising under or relating to the Yellow-  
3 stone River Compact (including the origi-  
4 nal proceeding between the State of Mon-  
5 tana and the State of Wyoming currently  
6 pending before the United States Supreme  
7 Court);

8 (B) makes an allocation or apportionment  
9 of water between or among States;

10 (C) addresses or implies whether, how, or  
11 to what extent (if any)—

12 (i) the Tribal Water Right or any por-  
13 tion of the Tribal Water Right should be  
14 accounted for as part of or otherwise  
15 charged against any allocation of water  
16 made to a State under the provisions of  
17 the Yellowstone River Compact; or

18 (ii) the Yellowstone River Compact in-  
19 cludes or does not include the Tribal  
20 Water Right or the water right of any In-  
21 dian tribe as part of any allocation or  
22 other disposition of water under that com-  
23 pact; or

24 (D) waives the sovereign immunity from  
25 suit of any State under the Eleventh Amend-



1           ment to the Constitution of the United States,  
 2           except as expressly authorized in Article IV  
 3           F.8. of the Compact.

4   **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

5       (a) REHABILITATION AND IMPROVEMENT OF CROW  
 6   IRRIGATION PROJECT.—There is authorized to be appro-  
 7   priated \$160,653,000, adjusted to reflect changes since  
 8   May 1, 2008, under section 5(e) for the rehabilitation and  
 9   improvement of the Crow Irrigation Project.

10      (b) DESIGN AND CONSTRUCTION OF MR&I SYS-  
 11   TEM.—There is authorized to be appropriated  
 12   \$200,840,000, adjusted to reflect changes since May 1,  
 13   2008, under section 6(e) for the design and construction  
 14   of the MR&I System.

15      (c) TRIBAL COMPACT ADMINISTRATION.—There is  
 16   authorized to be appropriated \$4,000,000 for Tribal Com-  
 17   pact Administration.

18      (d) ECONOMIC DEVELOPMENT PROJECTS.—There is  
 19   authorized to be appropriated \$40,000,000 for Economic  
 20   Development Projects.

21      (e) WATER DEVELOPMENT PROJECTS.—There is au-  
 22   thorized to be appropriated \$37,594,000 (as adjusted to  
 23   reflect changes in construction cost indices applicable to  
 24   the types of construction involved during the period begin-

1 ning on May 1, 2008, and ending on the date of appropria-  
2 tion) for Water Development Projects.

3 (f) MR&I SYSTEM OM&R.—There is authorized to  
4 be appropriated \$40,513,000 (as adjusted to reflect  
5 changes in appropriate cost indices during the period be-  
6 ginning on May 1, 2008, and ending on the date of appro-  
7 priation) for MR&I OM&R.

8 (g) YELLOWTAIL DAM OM&R.—There is authorized  
9 to be appropriated \$30,876,000 (as adjusted to reflect  
10 changes in appropriate cost indices during the period be-  
11 ginning on May 1, 2008, and ending on the date of appro-  
12 priation) for Yellowtail Dam OM&R.

13 (h) CIP OM&R.—There is authorized to be appro-  
14 priated \$12,736,000 (as adjusted to reflect changes in ap-  
15 propriate cost indices during the period beginning on May  
16 1, 2008, and ending on the date of appropriation) for CIP  
17 OM&R.

18 (i) ENVIRONMENTAL COMPLIANCE.—There are au-  
19 thorized to be appropriated such sums as are necessary  
20 to carry out all necessary environmental compliance activi-  
21 ties undertaken by the Secretary associated with the Com-  
22 pact and this Act.

23 (j) BUREAU OF RECLAMATION COSTS FOR CROW IR-  
24 RIGATION PROJECT.—There are authorized to be appro-  
25 priated such sums as are necessary for the Bureau of Rec-

1 lamation to carry out its role as lead agency for the reha-  
 2 bilitation and improvement of the Crow Irrigation Project.

3 (k) BUREAU OF RECLAMATION COSTS FOR MR&I  
 4 SYSTEM.—There are authorized to be appropriated such  
 5 sums as are necessary for the Bureau of Reclamation to  
 6 carry out its role as lead agency for the design and con-  
 7 struction of the MR&I System.

8 (l) INTEREST ACCRUED FROM CROW SETTLEMENT  
 9 FUND.—For each fiscal year during the period beginning  
 10 on the date of enactment of this Act and ending on the  
 11 enforceability date, there is authorized to be appropriated  
 12 for deposit into the Crow Settlement Fund an amount  
 13 equal to the interest that would have accrued during the  
 14 preceding fiscal year on balances held in the Crow Settle-  
 15 ment Fund.

16 (m) CALCULATION OF INTEREST.—The interest de-  
 17 scribed in this section shall be calculated using the appli-  
 18 cable rate for interest-bearing obligations of the United  
 19 States.

20 **SEC. 15. REPEAL ON FAILURE TO MEET EFFECTIVE DATE.**

21 If the Secretary does not publish a statement of find-  
 22 ings under section 10(e) by March 31, 2015—

23 (1) this Act is repealed effective January 1,  
 24 2015, and any action taken by the Secretary and  
 25 any contract or agreement pursuant to the authority

1       provided under any provision of this Act shall be  
2       void;

3               (2) any amounts appropriated under section 14,  
4       together with any interest on those amounts, shall  
5       immediately revert to the general fund of the Treas-  
6       ury; and

7               (3) any amounts made available under section  
8       14 that remain unexpended shall immediately revert  
9       to the general fund of the Treasury.

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